

**FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES
WASHINGTON, D.C. 20579**

IN THE MATTER OF THE CLAIM OF

MARIA P. DEL VILLAR

**Under the International Claims Settlement
Act of 1949, as amended**

Claim No. CU -4433

Decision No. CU -6841

Petition to reopen; Order of Dismissal dated and entered October 21, 1969.

FINAL DECISION

This claim against the Government of Cuba, opened by the Commission on behalf of MARIA P. DEL VILLAR was dismissed by Order of Dismissal No. CU-611, dated October 21, 1969, for the reason that claimant failed to process the claim upon her return from Cuba to the United States on August 14, 1969.

By letter dated March 31, 1970 claimant petitioned the Commission to reopen the claim and submitted supporting documentation, including a copy of her birth certificate showing that she was born in New Orleans, Louisiana, and thus a national of the United States since her birth.

Upon consideration of this matter, the petition is granted, the Order of Dismissal is set aside and this decision is entered.

Under Title V of the International Claims Settlement Act of 1949 [78 Stat. 1110 (1964), 22 U.S.C. §§1643-1643k (1964), as amended, 79 Stat. 988 (1965)], the Commission is given jurisdiction over claims of nationals of the United States against the Government of Cuba. Section 503(a) of the Act provides that the Commission shall receive and determine in accordance with applicable substantive law, including international law, the amount and validity of claims by nationals of the United States against the Government of Cuba arising since January 1, 1959 for

losses resulting from the nationalization, expropriation, intervention or other taking of, or special measures directed against, property including any rights or interests therein owned wholly or partially, directly or indirectly at the time by nationals of the United States.

Section 502(3) of the Act provides:

The term 'property' means any property, right, or interest including any leasehold interest, and debts owed by the Government of Cuba or by enterprises which have been nationalized, expropriated, intervened, or taken by the Government of Cuba and debts which are a charge on property which has been nationalized, expropriated, intervened, or taken by the Government of Cuba.

On the basis of documentation now of record, the Commission finds that claimant was the owner of a one-fourth (1/4) interest in the following real property:

(1) Land measuring 142.50 sq. meters located at 1157 Neptuno Street, in the center of the City of Havana, improved with a dwelling erected thereon, purchased in 1919 for \$14,000.00;

(2) Land measuring 230 sq. meters located at 403 - 405 Jesus Rabi Street in the subsection Santos Suarez of the City of Havana, with a dwelling erected thereon, purchased in 1920 for \$14,000.00; and

(3) Land measuring 94.40 sq. meters located at 312 Juana Alonso Street, in the subsection of Luyano of the City of Havana with a dwelling erected thereon, purchased in 1935 for \$1,450.00.

The record shows that all the above real property was subject to the Cuban Urban Reform Law published by the Government of Cuba in the Official Gazette on October 14, 1960. Under this law the renting of urban property and all other transactions or contracts involving transfer of the total or partial use of urban property was outlawed. The Commission, therefore, holds that claimant's interest in the real property was taken on October 14, 1960 (see Claim of Henry Lewis Slade, Claim No. CU-0183, 1967 FCSC Ann. Rep. 39).

Claimant further asserts a claim for a 1/4th interest in the above described real property inherited from her sister Maria Marcelina del Carmen Villar del Villar who died on January 25, 1964; for a 1/4th interest inherited from her sister Maria de Jesus Asuncion Villar del Villar who died on July 11, 1964; and for a 1/4th interest inherited from her sister Maria Amparo de la Nieves Villar del Villar who died on November 7, 1967.

Section 504 of the International Claims Settlement Act of 1949, as amended, provides that

(a) A claim shall not be considered under Section 503(a) of this title unless the property on which the claim was based was owned wholly or partially, directly or indirectly by a national of the United States on the date of the loss and if considered shall be considered only to the extent the claim has been held by one or more nationals of the United States continuously thereafter until the date of filing the claim.

The record does not indicate that any of claimant's sisters was a national of the United States on the date of the loss or thereafter. Accordingly, the Commission finds that the claim that arose on October 14, 1960 in favor of claimant's three sisters and which was subsequently inherited by the claimant, has not been owned by nationals of the United States at the time of the loss, namely on October 14, 1960, and thereafter until filing of the claim. Therefore, the portion of the claim relating to inherited property must be and it is hereby denied.

A claim is also asserted for the loss of personal property, consisting of furniture, household goods and equipment, situated in claimant's house in Havana. On December 6, 1961, the Government of Cuba published in the Official Gazette Law No. 989 which provides for the confiscation of assets, real and personal property, rights, shares of stock, bonds and other property of persons who left Cuba. The record shows that claimant left Cuba on August 14, 1969, and the Commission concludes that claimant's personal property was taken by the Government of Cuba on August 14, 1969.

Although the claim for personal property arose in 1969, subsequent to the close of the period for filing claims of this nature against the Government of Cuba, the Commission has held that it will consider on their merits claims for losses sustained subsequent to the deadline, so long as consideration thereof does not impede the determination of claims which arose prior to the close of the filing period (see Claim of Vivian Morales, Claim No. CU-8739).

The Act provides in Section 503(a) that in making determinations with respect to the validity and amount of claims and value of properties, rights, or interests therein, the Commission shall take into account the basis of valuation most appropriate to the property and equitable to the claimant, including but not limited to fair market value, book value, going concern value, or cost of replacement.

The question, in all cases will be to determine the basis of valuation which, under the particular circumstances, is "most appropriate to the property and equitable to the claimant". This phraseology does not differ from international legal standard that would normally prevail in the evaluation of nationalized property. It is designed to strengthen that standard by giving specific bases of valuation that the Commission shall consider.

On the basis of the record, and evidence available to the Commission as to the values of similar properties in Cuba, the Commission finds that the properties and claimant's interest therein at the time of the loss had the following values:

(1) 1157 Neptuno:

Land: 142.80 sq. meters	\$ 7,000.00
Building	<u>21,000.00</u>
	\$28,000.00

Claimant's 1/4th interest	\$ 7,000.00
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(2) 403 - 405 Jesus Rabi:

Land: 230 sq. meters	\$ 5,000.00
Building	<u>20,000.00</u>
	\$25,000.00

Claimant's 1/4th interest	\$ 6,250.00
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(3) 312 Juana Alonso

Land: 94.40 sq. meters	\$ 1,000.00
Building	<u>5,000.00</u>
	\$ 6,000.00

Claimant's 1/4th interest	\$ 1,500.00
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(4) Personal Property	<u>700.00</u>
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Claimant's total loss	\$15,450.00
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The Commission has decided that in certifications of loss on claims determined pursuant to Title V of the International Claims Settlement Act of 1949, as amended, interest should be included at the rate of 6% per annum from the date of loss to the date of settlement (see Claim of Lisle Corporation, Claim No. CU-0644) and in the instant case it is so ordered as follows:

<u>FROM</u>	<u>ON</u>
October 15, 1960	\$14,750.00
August 14, 1969	<u>700.00</u>
	\$15,450.00

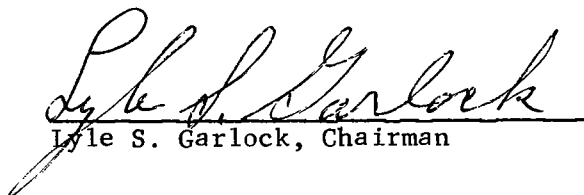
Accordingly, the following Certification of Loss will be entered:

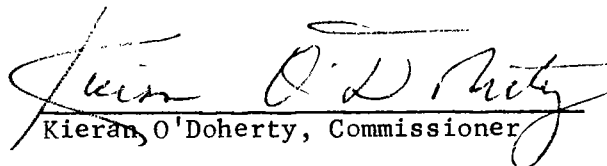
CERTIFICATION OF LOSS

The Commission certifies that MARIA P. DEL VILLAR suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Fifteen Thousand Four Hundred Fifty Dollars (\$15,450.00) with interest thereon at 6% per annum from the respective dates of loss to the date of settlement.

Dated at Washington, D. C.,
and entered as the Final
Decision of the Commission

JUN 30 1972


Lyle S. Garlock, Chairman


Kieran O'Doherty, Commissioner

The statute does not provide for the payment of claims against the Government of Cuba. Provision is only made for the determination by the Commission of the validity and amounts of such claims. Section 501 of the statute specifically precludes any authorization for appropriations for payment of these claims. The Commission is required to certify its findings to the Secretary of State for possible use in future negotiations with the Government of Cuba.